

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK



IN RE 22ND CENTURY GROUP, INC.,)
DERIVATIVE LITIGATION)
_____)

Case No.: 1:19-CV-00479 JLS

~~PROPOSED~~ ORDER TO SUBSTITUTE PARTY PLAINTIFF

WHEREAS, the above referenced consolidated derivative action is pending in this Court;

WHEREAS, on August 15, 2019, this Court stayed the consolidated derivative action pending the resolution of a related securities class action;

WHEREAS, a Suggestion of Death was filed on behalf of Plaintiff Melvyn Klein, *see* Dkt. No. 18;

WHEREAS, Cindy Maloney, the Executrix of the Estate of Melvyn Klein, has moved to substitute into this action as a party plaintiff;

WHEREAS, the above-referenced consolidated derivative action remains stayed pending the resolution of the related securities class action, which was dismissed with prejudice by the Western District of New York and for which the appeal is pending in the Second Circuit Court of Appeals; and

WHEREAS, the motion to substitute is unopposed.

NOW THEREFORE, IT IS HEREBY ORDERED:

1. The motion to substitute the Executrix of the Estate of Melvyn Klein as a party plaintiff for deceased plaintiff Melvyn Klein is hereby granted, and the above-referenced consolidated derivative action remains stayed.

SO ORDERED this 18th day of March, 2022.

John L. Sritke, Jr.
U.S.D.J.